IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 196 of 2000
Reserved on : 26-6-2007.

Date of Decision: 2. 07. 2007.

State of H P. Appellant.

Versus

Pritam Chand and others. Respondents.

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]? No

For the appellant : Sh.V K Verma, Additional Advocate General.

For respondents : Shri Rajesh Mandhotra, Advocate. Advocate.

Surinder Singh, J . (oral)

The State-appellant feeling aggrieved and dis-satisfied by the judgment of acquittal passed by Judicial Magistrate Ist Class, in Criminal Case No. 2-II/97 decided on 27-7-1997 whereby the respondents were acquitted under Sections 324, 323 read with Section 34 of the Indian Penal Code, has filed this appeal. The impugned judgment is assailed on the ground that the learned trial Court gave weightage to the minor, immaterial contradictions and wrongly relied upon the defense version.

The leave to appeal was granted only in respect of respondent Pritam Chand vide order dated 28.4.2000.

I heard Shri V.K. Verma, learned Additional Advocate General and Shri Rajesh Mandhotra, Advocate for the respondent and have examined the record.

Whether reporters of the Local papers are allowed to see the judgment? . Yes.

In brief, the prosecution story has been that on 12-9-1996 at about 8.00 a.m., the respondent Pritam Chand had caused simple injuries with knife to his wife Smt. Indora Devi complainant when she came back to her matrimonial home on 11.9.1996. To this effect, Rapat Roznamcha Exhibit PA was recorded. After her medical examination, M.L.C. Exhibit PW3/A was obtained and thereafter formal FIR was registered. During the investigation, the site plan was prepared by the Police and after completing the investigation, the challan was presented in the Court under the aforesaid sections for the trial of the respondents.

On appreciating the evidence on record, the learned trial court acquitted the respondents against which the State has filed the instant appeal. Since the leave was granted against the respondent Pritam Chand, aforesaid, therefore, the evidence has to be re-appraised qua him alone whether he was responsible to cause injury to the complainant as alleged.

It is an admitted fact that matrimonial dispute is going on inter-se the complainant and the respondent aforesaid which is pending in the court of District Judge. She was residing away from the respondent-husband and when she came to her matrimonial home, her presence was allegedly objected to by the respondents. Her husband allegedly had attacked her with a knife and caused three injuries on her person out of which injury No.1 though simple but is alleged to have been caused with sharp edged weapon but the knife was not recovered, the explanation of the Investigating Officer to this effect is not corroborated from the record, whereas, the complainant had stated that it was not taken into possession by the Police.

Dr. K.L. Kapoor (PW3) has stated that such type of injury could be possible due to fall on hard surface. In order to prove that the injury in question has been caused by the alleged weapon, the said weapon

could not be put to the Doctor for the aforesaid reason. Initially there was an allegation against the other respondents regarding giving beatings to her but when the complainant was examined, she denied having been given beatings by them. There is no explanation to this effect why she was shielding the other respondents which goes against her earlier version given to the Police. Even Bachittrar Singh (PW2) an alleged eye witness could not say as to how and with which weapon, the injury was caused by the respondent to Indira Devi complainant. The Investigating officer has stated that there are many matters pending inter-se the parties and further that the complainant as well as Pritam respondent had been reporting frequently against each other.

In view of the above evidence on record and on its close scrutiny and re-appraisal of the evidence, the case of the prosecution could not be proved beyond a shadow of reasonable doubt. Thus it was rightly so concluded by the trial court trial court. The findings are based upon evidence recorded before the trial Court. Since I have also come to the same findings independently, the judgment passed by the trial court could not be said to be perverse.

No other point was urged before me.

In result, the appeal merits dismissal which is accordingly dismissed. The respondent are discharged of their bail bonds which they have executed at any stage during the trial of this case.

(Surinder Singh)
Judge.

July 2, 2007.
(bm)